

U.S. Department of Justice

USDC-SDNY  
DOCUMENT

ELECTRONICALLY FILED

DOC #:

DATE FILED: 4/24/18

United States Attorney  
Southern District of New YorkThe Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007**MEMO ENDORSED**

April 20, 2018

**BY EMAIL**

The Honorable Ronnie Abrams  
United States District Judge, Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

To the extent the defendants intend to stipulate as to any of the document custodians, they shall return the signed stipulations prior to the April 26th conference. SO ORDERED.

Ronnie Abrams, U.S.D.J.  
April 24, 2018

**Re: *United States v. Jason Galanis, et al.*, S1 16 Cr. 371 (RA)**

Dear Judge Abrams:

The Government writes to briefly apprise the Court of the status of stipulations and Rule 16 productions.

As the Court is aware, at the April 13, 2018 conference, the Government informed the Court that absent stipulations the Government would need to call dozens of document custodians, thereby affecting the length of the trial. The Government also indicated that it had provided proposed stipulations to the defense significantly in advance of the conference but had not heard back from any defense counsel. Defense counsel conferred and stated that "the overwhelming majority of the stipulations will be agreed to in advance." (Tr. 58). The Government then requested that defendants return signed stipulations by a set date (or inform the Government as to which custodians the defendants did not intend to stipulate). The Court ordered the defendants to do so by Wednesday, April 18.

The defendants, however, did not do as ordered. Instead, on April 18, 2018, defense counsel emailed the Government indicating that they would "agree to stipulate to a majority of the stipulations" and "plan to finalize defense counsel's proposed language for the stipulations and submit revisions in the next week." Counsel also indicated a limited number of custodians whom they might wish the Government to call. The Government responded indicating that this generalized response did not comply with the Court's order to return signed stipulations by that date and asking that the defendants either "return[] signed stipulations or [] send[] proposed language for our review" by the end of the day on April 19, 2018. The defendants have not responded.<sup>1</sup> Accordingly, the Government respectfully requests that the Court order the defendants

<sup>1</sup> Counsel for Morton is the exception to the above. On April 19, 2018 the Government and Morton's counsel engaged in productive conversations about the proposed stipulations and the Government agreed to make certain changes requested by Morton's counsel. The Government is

to comply with the Court's April 13, 2018 order by 5:00 p.m. on Monday. There is simply no reason for any further delay.

The Government also wishes to apprise the Court of the status of Archer's Rule 16 production. As the Court is aware, on the agreed upon deadline of one month before trial, Archer produced more than 3 million documents of Rule 16 materials in an unusable format. Following the Court's Order that Archer produce only those documents he intended to use in his case-in-chief in trial by April 12, 2018, Archer made a new production of more than 500,000 documents, approximately 494,000 of which were calendar entries and approximately 6,000 of which were emails or other documents. The Government has now loaded the non-calendar documents for review.<sup>2</sup> The Government's preliminary review of these documents suggests that the defendant cannot possibly intend to offer the vast majority in his case in chief at trial. The bulk of the documents consist of, among other documents, (i) yelp restaurant recommendations; (ii) Google alerts for John Kerry, Teresa Heinz, and various of Archer's own businesses; (iii) daily market reports (an example of which is attached hereto as Exhibit A); and (iv) updates on Archer's open table reservation "points." The Government emailed counsel for Archer yesterday asking him to explain the relevance of these documents. He has not responded. The Government is not seeking any relief at this time and is instead spending the time to remove these thousands of irrelevant documents from the production. The Government believes, however, that the Court should be aware of Archer's apparent failure to comply with the Court's order.

Respectfully submitted,

GEOFFREY S. BERMAN  
United States Attorney

By: /s/ Rebecca Mermelstein  
Rebecca Mermelstein / Brendan F. Quigley /  
Negar Tekei  
Assistant United States Attorneys  
(212) 637-2360/2190/2442

cc: All counsel of record (by electronic mail)

---

in the process of making such changes and providing updated stipulations to all counsel. The Government also understands that counsel for John Galanis is reviewing the proposed stipulations with Galanis today.

<sup>2</sup> Because the calendar entries were produced in a native form, which is very slow to load, efforts to load those items are still underway.